

A QUALITY
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State of Wisconsin Department of Public Instruction

Elizabeth Burmaster, State Superintendent

December 22, 2005

 **COPY**

Michael Aldana
Attorney
Quarles & Brady
411 East Wisconsin Avenue
Milwaukee, WI 53202-4497

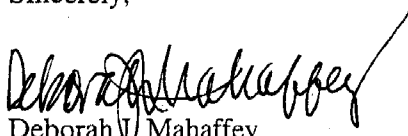
Re: Eligibility of Northside High School to Participate in the Milwaukee Parental Choice Program

Dear Mr. Aldana:

I have enclosed a copy of my proposed decision and order in the matter above. Because I have determined that Northside High School is not a private school and therefore not eligible to participate in the Milwaukee Parental Choice Program, you are entitled under s. 227.46(4), Wis. Stats., to file written objections to my decision with the State Superintendent.

These written objections must be received by the State Superintendent no later than January 16, 2006. The State Superintendent will consider any written objections before rendering a final decision and order in this matter. If you choose not to file written objections, the State Superintendent will issue a final decision and order in this matter that is identical to my proposed decision.

Sincerely,


Deborah Mahaffey
Hearing Examiner

DJM/mew

Enclosure

C: Ricardo Brooks, CEO, Northside High School
State Superintendent Elizabeth Burmaster

THE STATE OF WISCONSIN

BEFORE

THE DEPARTMENT OF PUBLIC INSTRUCTION

In the Matter of Eligibility of Northside High School to Participate in the Milwaukee Parental Choice Program	PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER
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INTRODUCTION

This matter is before the Department of Public Instruction pursuant to a request for a hearing under s. 227.42(1) Wis. Stats., filed by Northside High School with the Department of Public Instruction on November 14, 2005. Northside High School asks the Department to reconsider its preliminary finding made on November 10, 2005, that Northside High School is not operating a school that meets the definition of a private school under s. 118.165 (1), Wis. Stats., because its program does not provide a sequentially progressive curriculum or at least 875 hours of instruction each school year or both and, therefore, is not eligible to participate in the Milwaukee Parental Choice Program (MPCP) under section 119.23 (1), Wis. Stats.

PROPOSED FINDINGS OF FACT

1. On January 30, 2005, Northside High School [Northside] signed a Notice of Intent to Participate form for the MPCP. On page 2, the form states in relevant part that as a condition of receiving MPCP funds that Northside guarantees compliance with:
 - b. Wisconsin State Statute 118.165 regarding private schools which requires a school participating in the MPCP to meet the following requirements:
 1. The primary purpose of the program is to provide private or religious-based education.
 2. The program is privately controlled.
 3. The program provides at least 875 hours of instruction each school year.
 4. The program provides a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science, and health.
 5. The program is not operated or instituted for the purpose of avoiding or circumventing the compulsory school attendance requirement under s. 118.15 (1) (a), Wis. Stats.
 6. The pupils in the institution's educational program, in the ordinary course of events, return annually to the homes of their parents or guardians for not less

than 2 months of summer vacation, or the institution is licensed as a child welfare agency under section 48.60 (1), Wis. Stats.

2. The Notice of Intent to Participate form signed by Northside High School also states that if Northside fails to comply with s. 118.165, Wis. Stats., "the school understands that its participation in the program can be terminated."
3. The preliminary findings issued by the Department on November 10, 2005, found that Northside's day school program did not provide at least 875 hours of instruction.
4. At hearing, Northside presented a new, revised class schedule and school calendar for the day school that showed that it provides at least 875 hours of instruction. The new schedule for the day school program included additional instructional time in the daily schedule and extended the school year to July 31, 2005. Northside testified that the new schedule took effect November 22, 2005, and further testified that students and parents were notified of the changes in the day school schedule and calendar.
5. The preliminary findings issued by the Department on November 10, 2005, found that Northside's program is not providing sequentially progressive curriculum.
6. Northside testified that the school's curriculum followed the outline of subject matter textbooks.
7. DPI testified that textbooks alone do not constitute sequentially progressive curriculum (Exhibit 5).
8. Based upon testimony by the former Northside principal, Northside had not purchased textbooks until sometime after September 18, 2005 (Exhibit 12).
9. Northside did not establish the point in time that textbooks were purchased for use at the school, nor the point in time when pupils began receiving instruction using such textbooks.
10. Northside conceded that students spent class time in school in non-instructional activities prior to getting the textbooks. A Northside student testified that instructional time was spent doing crossword puzzles and shooting dice.
11. Northside testified that the school's curriculum is not finished and estimated that it takes about three years to complete curriculum development.
12. Northside testified that the school is a "fledgling" school that is moving toward sequentially progressive curriculum, and conceded that sequentially progressive curriculum has not yet been developed.

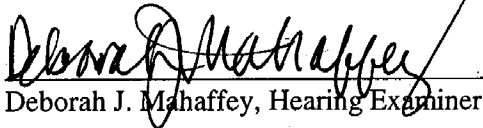
PROPOSED CONCLUSIONS OF LAW

1. Northside would provide sufficient hours of instruction if it followed the amended schedule presented at hearing.
2. Northside has breached its agreement with the Department of Public Instruction, which is contained in the Notice of Intent to Participate form, by failing to satisfy the requirement to provide a sequentially progressive curriculum.
3. Northside has failed to comply with s. 118.165, Wis. Stats., by failing to meet the sequentially progressive curriculum requirement.
4. Because Northside has breached its agreement with the Department of Public Instruction and is not operating a private school under s. 118.165, Wis. Stats., Northside is not eligible to participate in the MPCP under s. 119.23, Wis. Stats., which requires all participating schools to be private schools.

PROPOSED ORDER

1. Northside is ineligible to receive MPCP payments and no further payments will be issued.
2. Northside shall return the net September 2005 payment in the amount of \$258,803.25 to the Department of Public Instruction within 30 days of issuance of this order.

Dated this 22nd day of December 2005.


Deborah J. Mahaffey, Hearing Examiner

Parties to Hearing

Northside High School (2704 N. 50th Street, Milwaukee WI 53210):
Ricardo Brooks, CEO, Northside High School
Michele DuPree, Director of Administration, Northside High School
Dr. Mirtlean Jenkins, Psychotherapist and Consultant to Northside High School
Bruce Connolly, Superintendent, Brown Deer School District, 8200 N. 60th Street, Brown Deer, WI 53223-3598 (scheduled by phone, but was not called for testimony)
Kevin France, Teacher, Northside High School
Heather Deckow, Student and part-time employee, Northside High School

Department of Public Instruction (125 S. Webster Street, Madison, WI 53702):
Robert A. Soldner, Director, School Management Services
Mary Kleusch, Assistant Director, Office of Education Accountability
LaTrina Cooper, Former Co-Principal, Northside High School
Dennis Hanson, DPI School Finance Auditor